

**U.S. District Court
Southern District of New York (Foley Square)
CIVIL DOCKET FOR CASE #: 1:19-cv-00712-KPF**

State Of New York v. United States Environmental Protection Agency et al
Assigned to: Judge Katherine Polk Failla
Cause: 05:552 Freedom of Information Act

Date Filed: 01/24/2019
Jury Demand: None
Nature of Suit: 895 Freedom of Information Act
Jurisdiction: U.S. Government Defendant

Plaintiff

State Of New York

represented by **Gavin Geraghty McCabe**
New York State Office of Attorney General
28 Liberty Street
Ste 19th Floor
New York, NY 10005
212-416-8469
Fax: 212-416-6007
Email: gavin.mccabe@ag.ny.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Yueh-ru Chu
Office of the Attorney General, New York State
120 Broadway
24th Floor
New York, NY 10271
212-416-6588
Fax: 212-416-6007
Email: Yueh-Ru.Chu@ag.ny.gov
ATTORNEY TO BE NOTICED

V.

Defendant

United States Environmental Protection Agency

represented by **Danielle Judith Levine**
U.S. Attorney Office SDNY
86 Chambers Street
New York, NY 10007
212-637-2689
Email: danielle.levine@usdoj.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

National Highway Traffic Safety Administration

represented by **Danielle Judith Levine**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
01/24/2019	<u>1</u>	FILING ERROR – DEFICIENT PLEADING – FILED AGAINST PARTY ERROR –COMPLAINT against State Of New York. (Filing Fee \$ 400.00, Receipt Number ANYSDC-16239344)Document filed by State Of New York.(Chu, Yueh-ru) Modified on 1/25/2019 (pne). (Entered: 01/24/2019)

01/24/2019	<u>2</u>	FILING ERROR – PDF ERROR – CIVIL COVER SHEET filed. (Chu, Yueh-ru) Modified on 1/25/2019 (pne). (Entered: 01/24/2019)
01/24/2019	<u>3</u>	FILING ERROR – DEFICIENT SUMMONS REQUEST PDF ERROR – REQUEST FOR ISSUANCE OF SUMMONS as to Environmental Protection Agency, re: <u>1</u> Complaint. Document filed by Environmental Protection Agency, Wash D.C.. (Chu, Yueh-ru) Modified on 1/25/2019 (pne). (Entered: 01/24/2019)
01/24/2019	<u>4</u>	FILING ERROR – DEFICIENT SUMMONS REQUEST PDF ERROR – REQUEST FOR ISSUANCE OF SUMMONS as to National Highway Traffic Safety Administration, re: <u>1</u> Complaint. Document filed by National Highway Traffic Safety Administration. (Chu, Yueh-ru) Modified on 1/25/2019 (pne). (Entered: 01/24/2019)
01/25/2019		CASE OPENING INITIAL ASSIGNMENT NOTICE: The above–entitled action is assigned to Judge Katherine Polk Failla. Please download and review the Individual Practices of the assigned District Judge, located at http://nysd.uscourts.gov/judges/District . Attorneys are responsible for providing courtesy copies to judges where their Individual Practices require such. Please download and review the ECF Rules and Instructions, located at http://nysd.uscourts.gov/ecf_filing.php . (pne) (Entered: 01/25/2019)
01/25/2019		Magistrate Judge Barbara C. Moses is so designated. Pursuant to 28 U.S.C. Section 636(c) and Fed. R. Civ. P. 73(b)(1) parties are notified that they may consent to proceed before a United States Magistrate Judge. Parties who wish to consent may access the necessary form at the following link: http://nysd.uscourts.gov/forms.php . (pne) (Entered: 01/25/2019)
01/25/2019		Case Designated ECF. (pne) (Entered: 01/25/2019)
01/25/2019		***NOTICE TO ATTORNEY REGARDING DEFICIENT PLEADING. Notice to Attorney Yueh-ru Chu to RE–FILE Document No. <u>1</u> Complaint,. The filing is deficient for the following reason(s): the wrong party/parties whom the pleading is against were selected. Re–file the pleading using the event type Complaint found under the event list Complaints and Other Initiating Documents – attach the correct signed PDF – select the individually named filer/filers – select the individually named party/parties the pleading is against. (pne) (Entered: 01/25/2019)
01/25/2019		***NOTICE TO ATTORNEY REGARDING DEFICIENT CIVIL COVER SHEET. Notice to attorney Yueh-ru Chu to RE–FILE Document No. <u>2</u> Civil Cover Sheet. The filing is deficient for the following reason(s): caption entered on civil cover sheet does not exactly match pleading caption. Re–file the document using the event type Civil Cover Sheet found under the event list Other Documents and attach the correct PDF. Use civil cover sheet issued by S.D.N.Y. dated June 2017. The S.D.N.Y. Civil Cover Sheet dated June 2017 is located at http://nysd.uscourts.gov/file/forms/civil-cover-sheet.. (pne) (Entered: 01/25/2019)
01/25/2019		***NOTICE TO ATTORNEY REGARDING PARTY MODIFICATION. Notice to attorney Yueh-ru Chu. The party information for the following party/parties has been modified: United States Environmental Protection Agency, National Highway Traffic Safety Administration, State Of New York. The information for the party/parties has been modified for the following reason/reasons: party name contained a typographical error; party role was entered incorrectly. (pne) (Entered: 01/25/2019)
01/25/2019		***NOTICE TO ATTORNEY REGARDING DEFICIENT REQUEST FOR ISSUANCE OF SUMMONS. Notice to Attorney Yueh-ru Chu to RE–FILE Document No. <u>3</u> Request for Issuance of Summons, <u>4</u> Request for Issuance of Summons,. The filing is deficient for the following reason(s): caption entered on summons requests does not match pleading caption; party name in the 'To' field on the summons request must match party name as it appears in pleading caption; party name on the docket entry must match party name as it appears in pleading caption. Re–file the document using the event type Request for Issuance of Summons found under the event list Service of Process – select the correct filer/filers – and attach the corrected summons form PDF. (pne) (Entered: 01/25/2019)

01/25/2019	<u>5</u>	FILING ERROR – DEFICIENT PLEADING – FILED AGAINST PARTY ERROR –COMPLAINT against All Defendants. Document filed by State Of New York.(Chu, Yueh-ru) Modified on 1/28/2019 (pc). (Entered: 01/25/2019)
01/25/2019	<u>6</u>	CIVIL COVER SHEET filed. (Chu, Yueh-ru) (Entered: 01/25/2019)
01/25/2019	<u>7</u>	REQUEST FOR ISSUANCE OF SUMMONS as to United States Environmental Protection Agency, re: <u>5</u> Complaint. Document filed by State Of New York. (Chu, Yueh-ru) (Entered: 01/25/2019)
01/25/2019	<u>8</u>	REQUEST FOR ISSUANCE OF SUMMONS as to National Highway Traffic Safety Administration, re: <u>5</u> Complaint. Document filed by State Of New York. (Chu, Yueh-ru) (Entered: 01/25/2019)
01/28/2019		***NOTICE TO ATTORNEY REGARDING DEFICIENT PLEADING. Notice to Attorney Yueh-ru Chu to RE–FILE Document No. <u>5</u> Complaint. The filing is deficient for the following reason(s): the All Defendant radio button was selected.; Re–file the pleading using the event type Complaint found under the event list Complaints and Other Initiating Documents – attach the correct signed PDF – select the individually named filer/filers – select the individually named party/parties the pleading is against. (pc) (Entered: 01/28/2019)
01/28/2019		***NOTICE TO ATTORNEY REGARDING DEFICIENT REQUEST FOR ISSUANCE OF SUMMONS. Notice to Attorney Yueh-ru Chu to RE–FILE Document No. <u>5</u> Complaint. The filing is deficient for the following reason(s): The summons requested was not processed due to the deficient pleading. Please file your request for summons when you correct and refile your pleading.; Re–file the document using the event type Request for Issuance of Summons found under the event list Service of Process – select the correct filer/filers – and attach the correct summons form PDF. (pc) (Entered: 01/28/2019)
01/28/2019	<u>9</u>	COMPLAINT against National Highway Traffic Safety Administration, United States Environmental Protection Agency. Document filed by State Of New York.(Chu, Yueh-ru) (Entered: 01/28/2019)
01/29/2019	<u>10</u>	REQUEST FOR ISSUANCE OF SUMMONS as to United States Environmental Protection Agency, re: <u>9</u> Complaint. Document filed by State Of New York. (Chu, Yueh-ru) (Entered: 01/29/2019)
01/29/2019	<u>11</u>	REQUEST FOR ISSUANCE OF SUMMONS as to National Highway Traffic Safety Administration, re: <u>9</u> Complaint. Document filed by State Of New York. (Chu, Yueh-ru) (Entered: 01/29/2019)
01/30/2019	<u>12</u>	ELECTRONIC SUMMONS ISSUED as to United States Environmental Protection Agency. (dnh) (Entered: 01/30/2019)
01/30/2019	<u>13</u>	ELECTRONIC SUMMONS ISSUED as to National Highway Traffic Safety Administration. (dnh) (Entered: 01/30/2019)
02/19/2019	<u>14</u>	NOTICE OF APPEARANCE by Gavin Geraghty McCabe on behalf of State Of New York. (McCabe, Gavin) (Entered: 02/19/2019)
02/19/2019	<u>15</u>	CERTIFICATE OF SERVICE of Summons and Complaint. All Defendants. Service was made by Mail. Document filed by State Of New York. (McCabe, Gavin) (Entered: 02/19/2019)
02/19/2019	<u>16</u>	NOTICE OF APPEARANCE by Gavin Geraghty McCabe on behalf of State Of New York. (McCabe, Gavin) (Entered: 02/19/2019)
02/26/2019	<u>17</u>	NOTICE OF INITIAL PRETRIAL CONFERENCE: Initial Conference set for 5/29/2019 at 04:00 PM in Courtroom 618, 40 Centre Street, New York, NY 10007 before Judge Katherine Polk Failla. (Signed by Judge Katherine Polk Failla on 2/26/2019) (rro) (Entered: 02/26/2019)
03/05/2019	<u>18</u>	CERTIFICATE OF SERVICE of Notice of Pretrial Conference and Individual Rules of Practice in Civil Cases served on U.S. EPA and NHTSA on March 5, 2019. Service was made by Mail. Document filed by State Of New York. (McCabe, Gavin) (Entered: 03/05/2019)

03/06/2019	<u>19</u>	NOTICE OF APPEARANCE by Danielle Judith Levine on behalf of National Highway Traffic Safety Administration, United States Environmental Protection Agency. (Levine, Danielle) (Entered: 03/06/2019)
03/06/2019	<u>20</u>	ANSWER to <u>2</u> Complaint. Document filed by National Highway Traffic Safety Administration, United States Environmental Protection Agency.(Levine, Danielle) (Entered: 03/06/2019)
04/02/2019	<u>21</u>	LETTER addressed to Judge Katherine Polk Failla from Assistant Attorney General Gavin G. McCabe dated April 2, 2019 re: Pre-Motion Submission. Document filed by State Of New York.(McCabe, Gavin) (Entered: 04/02/2019)
04/05/2019	<u>22</u>	LETTER addressed to Judge Katherine Polk Failla from Danielle J. Levine dated April 5, 2019 re: Response to Plaintiff's April 2, 2019 Letter (Dkt. No. 21). Document filed by National Highway Traffic Safety Administration, United States Environmental Protection Agency.(Levine, Danielle) (Entered: 04/05/2019)
04/08/2019	<u>23</u>	MEMO ENDORSEMENT on re: <u>22</u> Letter, filed by National Highway Traffic Safety Administration, United States Environmental Protection Agency. ENDORSEMENT: The Court is in receipt of Plaintiff's letter, dated April 2, 2019 (Dkt. #21), and Defendants' reply thereto, dated April 5, 2019 (Dkt. #22). After carefully considering both letters, the Court finds that a premotion conference is warranted. Accordingly, the parties are hereby ORDERED to appear for a premotion conference on April 24, 2019, at 2:30 p.m., in Courtroom 618 of the Thurgood Marshall Courthouse, 40 Foley Square, New York, New York. (Pre-Motion Conference set for 4/24/2019 at 02:30 PM in Courtroom 618, 40 Centre Street, New York, NY 10007 before Judge Katherine Polk Failla.) (Signed by Judge Katherine Polk Failla on 4/8/2019) (rro) (Entered: 04/08/2019)
04/24/2019		Minute Entry for proceedings held before Judge Katherine Polk Failla: Pre-Motion Conference held on 4/24/2019. Attorney Gavin Geraghty McCabe representing Plaintiff present. Attorneys Dominika Tarczynska and Danielle Judith Levine representing Defendants present. (Court Reporter Pamela Utter) (tn) (Entered: 04/25/2019)
04/25/2019	<u>24</u>	ORDER: The Court held a pre-motion conference with the parties on April 24, 2019. For the reasons stated at the conference, it is hereby ORDERED that the parties abide by the following disclosure schedule: The National Highway Traffic Safety Administration (NHTSA) will complete document production on or before May 29, 2019. The Environmental Protection Agency (EPA) will begin reviewing documents on or before May 20, 2019. The EPA will make a rolling production, to conclude on June 20, 2019. The May 29, 2019 conference is hereby ADJOURNED sine die. The parties shall submit a joint status update letter on or before July 10, 2019. SO ORDERED. (Signed by Judge Katherine Polk Failla on 4/24/2019) (rro) (Entered: 04/25/2019)
06/07/2019	<u>25</u>	TRANSCRIPT of Proceedings re: conference held on 4/24/2019 before Judge Katherine Polk Failla. Court Reporter/Transcriber: Pamela Utter, (212) 805-0300. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 6/28/2019. Redacted Transcript Deadline set for 7/8/2019. Release of Transcript Restriction set for 9/5/2019.(McGuirk, Kelly) (Entered: 06/07/2019)
06/07/2019	<u>26</u>	NOTICE OF FILING OF OFFICIAL TRANSCRIPT Notice is hereby given that an official transcript of a conference proceeding held on 4/24/19 has been filed by the court reporter/transcriber in the above-captioned matter. The parties have seven (7) calendar days to file with the court a Notice of Intent to Request Redaction of this transcript. If no such Notice is filed, the transcript may be made remotely electronically available to the public without redaction after 90 calendar days...(McGuirk, Kelly) (Entered: 06/07/2019)
07/10/2019	<u>27</u>	LETTER addressed to Judge Katherine Polk Failla from Danielle J. Levine dated July 10, 2019 re: joint status update. Document filed by National Highway Traffic Safety Administration, United States Environmental Protection Agency. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C)(Levine, Danielle) (Entered: 07/10/2019)

07/11/2019	<u>28</u>	MEMO ENDORSEMENT on re: <u>27</u> Letter, filed by National Highway Traffic Safety Administration, United States Environmental Protection Agency. ENDORSEMENT: Application GRANTED. The parties shall submit a joint status letter on or before July 31, 2019. SO ORDERED. (Signed by Judge Katherine Polk Failla on 7/11/2019) (kv) (Entered: 07/11/2019)
07/31/2019	<u>29</u>	STATUS REPORT. <i>Letter to Judge Failla</i> Document filed by State Of New York.(McCabe, Gavin) (Entered: 07/31/2019)